

**§ 114.102 When and where do I present a claim?**

You must present your claim within two years of the date of accrual at the SBA District Office nearest to the site and within the same state as the site. You must use an official form obtained from SBA or give other written notice of your claim, stating the specific amount of your alleged damages and providing enough information to enable SBA to investigate your claim. Your claim will be considered presented when SBA receives this information.

**§ 114.103 Who may file a claim?**

(a) If a claim is based on factors listed in the first column, then it may be presented by persons listed in the second column.

| Claim factors  | Claim presenters  |
|--|---|
| Injury to or loss of property ...                                | The owner of the property, his or her duly authorized agent, or legal representative.   |
| Personal injury .....  | The injured person, his or her duly authorized agent, or legal representative.  |
| Death .....  | The executor, administrator, or legal representative of the decedent's estate, or any other person entitled to assert the claim under applicable state law. |
| Loss wholly compensated by an insurer with rights as a subrogee. | The parties individually, as their interests appear, or jointly.  |

(b) An agent or legal representative may present your claim in your name, but must sign the claim, state his or her title or legal capacity, and include documentation of authority to present the claim on your behalf.

**§ 114.104 What evidence and information may SBA require relating to my claim?**

(a) For a claim based on injury to or loss of property:

- (1) Proof you own the property.
- (2) A specific statement of the damage you claim with respect to each item of property.
- (3) Itemized receipts for payment for necessary repairs or itemized written estimates of the cost of such repairs.
- (4) A statement listing date of purchase, purchase price and salvage value, where repair is not economical.

(5) Full information about potential insurance coverage and any insurance claims or payments relating to your claim.

(6) Any other information that may be relevant to the government's alleged liability or the damages you claim.

(b) For a claim based on personal injury, including pain and suffering:

(1) A written report from your health care provider stating the nature and extent of your injury and treatment, the degree of your temporary or permanent disability, your prognosis, period of hospitalization, and any diminished earning capacity.

(2) A written report following a physical, dental or mental examination of you by a physician employed by SBA or another Federal Agency. If you want a copy of this report, you must request it in writing, furnish SBA with the written report of your health care provider, if SBA requests it, and make or agree to make available to SBA any other medical reports relevant to your claim.

(3) Itemized bills for medical, dental and hospital expenses you have incurred, or itemized receipts of payment for these expenses.

(4) Your health care provider's written statement of the expected expenses related to any necessary future treatment.

(5) A statement from your employer showing actual time lost from employment, whether you are a full or part-time employee, and the wages or salary you actually lost.

(6) Documentary evidence showing the amount of earnings you actually lost if you are self-employed.

(7) Information about the existence of insurance coverage and any insurance claims or payments relating to the claim in question.

(8) Any other information that may be relevant to the government's alleged liability or the damages you claim.

(c) For a claim based on death:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Evidence of decedent's employment or occupation at the time of

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death, including monthly or yearly salary or earnings, and the duration of such employment or occupation.

(3) Full names, addresses, birth dates, kinship, and marital status of the decedent's survivors, including identification of those survivors who were dependent upon the decedent for support at the time of his or her death.

(4) Evidence of the support provided by the decedent to each dependent survivor at the time of his or her death.

(5) A summary of the decedent's general physical and mental condition before death.

(6) Itemized bills or receipts for payments for medical and burial expenses.

(7) For pain and suffering damage claims, a physician's detailed statement specifying the injuries suffered, the duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other information that may be relevant to the government's alleged liability or the damages claimed.

### **§ 114.105 Who investigates and considers my claim?**

(a) SBA may investigate, or ask another Federal agency to investigate, your claim. SBA also may request any Federal agency to conduct a physical examination of you and provide a report to SBA. SBA will reimburse the Federal agency for the costs of that examination when authorized or required by statute or regulation.

(b) In those cases in which SBA investigates your claim, the SBA District Counsel with jurisdiction over the site will conduct an investigation and make recommendations or a determination with respect to your claim. The District Counsel may negotiate with you and is authorized to use alternative dispute resolution mechanisms (nonbinding on SBA) when they may promote the prompt, fair and efficient resolution of your claim.

(c) If your claim is for \$5,000 or less, the District Counsel may deny the claim, or may recommend approval, compromise, or settlement of the claim to the General Counsel or designee, who may take final action. The District Counsel first must refer the claim to SBA's General Counsel or designee

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for review if SBA should consult with the Department of Justice before approving the claim, as required under § 114.107.

### **§ 114.106 What if my claim exceeds \$5,000?**

The District Counsel must review and investigate your claim and forward it with a report and recommendation to the General Counsel or designee, who may approve or deny an award, compromise, or settlement of claims in excess of \$5,000, but not exceeding \$25,000. The General Counsel or designee will handle claims in excess of \$25,000 as required by § 114.107.

### **§ 114.107 What if my claim exceeds \$25,000 or has other special features?**

(a) The U.S. Attorney General or designee must approve in writing any award, compromise, or settlement of a claim in excess of \$25,000. For this purpose, a principal claim and any derivative or subrogated claim are considered a single claim.

(b) SBA must consult with the Department of Justice before adjusting, determining, compromising, or settling a claim whenever the General Counsel or designee determines:

(1) The claim involves a new precedent or a new point of law; or

(2) The claim involves or may involve a question of policy; or

(3) The United States is or may be entitled to indemnity or contribution from a third party and SBA is unable to adjust the third party claim; or

(4) Approval of a claim, as a practical matter, will or may control the disposition of a related claim in which the amount to be paid may exceed \$25,000.

(c) SBA must consult with the Department of Justice before adjusting, determining, compromising, or settling a claim whenever SBA learns that the United States, or any of its employees, agents, or cost-plus contractors, is involved in litigation based on a claim arising out of the same incident or transaction.

(d) SBA, acting through its General Counsel or designee, must make any referrals to the Department of Justice